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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board held a General meeting on June 17, 2003, in Hearing Room #1, at the offices of the New Motor Vehicle Board ("Board").

2. **ROLL CALL**

Glenn E. Stevens, President of the Board, called the General meeting to order at 10:02 a.m.

Present:	Robert V. Branzuela	Tom Novi
	Robert T. (Tom) Flesh	Executive Director
	David C. Lizárraga	Howard Weinberg
	Angelo Quaranta (departed 1:00 p.m.)	General Counsel
	Alan J. Skobin	Robin Parker
	Glenn E. Stevens	Senior Staff Counsel
	David W. Wilson	Cara O'Neill-Stewart
		Staff Counsel

3. **APPROVAL OF THE MINUTES FROM THE APRIL 23, 2003, SPECIAL MEETING, AND THE APRIL 24, 2003, GENERAL MEETING**

Mr. Flesh moved to adopt the April 23, 2003, Special Board meeting minutes. Mr. Quaranta seconded the motion. Messrs. Lizárraga and Skobin did not vote because they were not present at the April 23, 2003, Special meeting. The motion carried unanimously.

Mr. Quaranta moved to adopt the April 24, 2003, General Board meeting minutes. Mr. Flesh seconded the motion. Mr. Quaranta seconded the motion. Messrs. Lizárraga and Skobin did not vote because they were not present at the April 24, 2003, General meeting. The motion carried unanimously.

4. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO SOLON SOTERAS, FORMER PUBLIC MEMBER**

Mr. Flesh moved to present a Resolution to Solon Soteras, former Public member, in appreciation for his dedication and service to the Board. Mr. Wilson seconded the motion. The motion carried unanimously. The Resolution will be presented at the September 16, 2003, General meeting in Los Angeles.

5. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO WENDY BROGIN, FORMER PUBLIC MEMBER**

Mr. Quaranta moved to present a Resolution to Wendy Brogin, former Public member, in appreciation for her dedication and service to the Board. Mr. Wilson seconded the motion. The motion carried unanimously. The Resolution will be presented at the September 16, 2003, General meeting in Los Angeles.

6. **DISCUSSION CONCERNING THE STATUS OF THE SAN FERNANDO VALLEY PROJECT BY R.F. "RON" SOBRERO, GENERAL MANAGER, DEALER RELATIONS, VEHICLE SALES, SERVICE AND MARKETING, GENERAL MOTORS CORPORATION - POLICY AND PROCEDURE COMMITTEE**

Ron Sobrero, General Manager, Dealer Relations, Vehicle Sales, Service and Marketing, General Motors Corporation provided the members with an update concerning the status of the San Fernando Valley Project. Michael Rovinski, Esq., Gus Garcia, and Wes Rydell were also present. Mr. Sobrero reported that the original investment by Rydell Automotive Group was 10%. That investment has increased to 35% and should be completed in four-to-six years. Gus Garcia is in the process of buying out Rydell. Presently, he owns 40% of Rydell's share of the dealerships. Mr. Garcia plans to complete the purchase as quickly as possible.

The members were provided a report on why the San Fernando Valley Project began, the performance of the dealerships in the Project, and what General Motors learned from it.

7. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board shall convene in a closed Executive Session to deliberate on the decisions to be reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

a. **CONSIDERATION OF PROPOSED DECISION**

MICHAEL CADILLAC, INC. dba MICHAEL VOLKSWAGEN v. VOLKSWAGEN OF AMERICA, INC.
Protest No. PR-1819-02

Consideration of the Administrative Law Judge's Proposed Decision, by the Public members of the Board.

Mr. Flesh disclosed that he owns General Motors and Ford Motor Company stock and offered to recuse himself at the request of either party. Counsel for the parties did not express any concerns.

Mr. Stevens asked counsel for the parties if they would waive the prohibition in Vehicle Code section 3066 and allow the dealer members to comment and ask questions but not consider the Proposed Decision or vote. Counsel waived the prohibition. (The dealer members did not ask any questions or comment.)

Oral arguments were presented before the Public members of the Board. Michael J. Flanagan, Esq., of the Law Offices of Michael J. Flanagan represented Protestant. Allen S. Resnick of Jeffer, Mangels, Butler & Marmaro represented Respondent. Vince Schardt, Area Executive for Volkswagen of America, Inc., was also present.

After consideration of the oral arguments in Agenda item 7(b), the Public members of the Board deliberated in closed Executive Session. Mr. Quaranta moved to adopt the Administrative Law Judge's Proposed Decision. Mr. Flesh seconded the motion. Mr. Lizárraga opposed the motion. The motion carried by a three-to-one vote.

b. **CONSIDERATION OF PROPOSED DECISION**

UNIVERSITY FORD, dba BOB BAKER FORD v. FORD MOTOR
COMPANY
Petition No. P-450-02

Consideration of the Administrative Law Judge's Proposed Decision, by the Public members of the Board.

Mr. Flesh disclosed that he owns Ford Motor Company stock and offered to recuse himself at the request of either party. Counsel for the parties did not express any concerns.

Oral arguments were presented before the Public members of the Board. Michael M. Sieving, Esq., of the Law Offices of Michael M. Sieving represented Petitioner. Cranston J. Williams of Baker & Hostetler LLP represented Respondent.

Michael J. Flanagan, of the Law Offices of Michael J. Flanagan, presented arguments on behalf of Asbury Automotive Group, Inc. Peter K. Welch, Director of Government and Legal Affairs, California Motor Car Dealers Association, as a member of the public presented comments as to the appropriate legal standard. Robert H. Baker, dealer principal, presented comments to the members.

The Public members of the Board deliberated in closed Executive Session. Mr. Flesh moved to request additional briefing on the proper standard of administrative judicial review under *Vehicle Code* §11713.3(d)(3), and the applicability of the holdings in the Federal cases of, *In re Van Ness Auto Plaza, Inc.*, 120 B.R. 545 (Bankr N.D. Cal. 1990), and *In re Claremont Acquisition Corporation, Inc.*, 186 B.R. 977 (Bankr. C.D. Cal. 1995). The deadline for filing the simultaneous briefs via facsimile was Friday, June 20, 2003, at 4:00 p.m.

Reply briefs by either side were not allowed. The matter would then be remanded to the Administrative Law Judge for consideration. The Public members of the Board would then meet as early as possible in July 2003 to consider the Proposed Decision. Mr. Quaranta seconded the motion. The motion carried unanimously.

8. **OPEN SESSION**

The Public members returned to Open Session. Mr. Stevens announced the decisions on Agenda items 7(a) and 7(b).

Mr. Stevens congratulated Alan Skobin on his recent appointment as a Police Commissioner in Los Angeles. Mr. Skobin indicated that he was honored to serve and would continue to serve on the New Motor Vehicle Board.

9. **REPORT ON THE TYPES OF E-MAIL REQUESTS FOR INFORMATION THAT THE BOARD RECEIVES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning the types of e-mail requests for information the Board receives. From April 2001 to May 2003, the Board has received 263 e-mails. Of those, 117 were misdirected and should have been sent to the Department of Motor Vehicles.

10. **STATUS REPORT CONCERNING THE BOARD'S COLLECTION OF THE ARBITRATION CERTIFICATION PROGRAMS' ANNUAL FEE - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning the Board's collection of the Arbitration Certification Programs' Annual Fee. Miss Kindel reported that the fee collection was completed.

11. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR THE 3RD QUARTER OF FISCAL YEAR 2002-2003 - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi, Dawn Kindel, and Linda Lighter concerning the Board financial condition report for the 3rd quarter of fiscal year 2002-2003. The Board has expended 62% of its appropriated budget through the 3rd quarter of fiscal year 2002-2003.

12. **CONSIDERATION OF OUT-OF-STATE TRAVEL FOR FISCAL YEAR 2003-2004 - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning the out-of-state travel for fiscal year 2003-2004. Miss Kindel reported that the Board reduced the number of trips typically requested from four to three and the costs from \$7,000 to \$4,000.

Mr. Flesh moved to adopt the Committee's recommendation as corrected to refer to the Board President without reference to a specific individual. Mr. Wilson seconded the motion. The motion carried unanimously.

13. **CONSIDERATION OF MODIFYING BOARD POLICY CONCERNING SHIFTING COURT REPORTER COSTS TO LITIGANTS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Howard Weinberg concerning modifying Board policy concerning shifting court reporter costs to litigants. Mr. Weinberg reported that the Board is only one of two State agencies that routinely requests hearing transcripts and that they are of great value to the Judges in preparing their proposed decisions on merits hearings and dispositive motions. He also pointed out that the Judges do not ordinarily need the transcripts for other motions or pre-hearing conferences, and that the parties occasionally request them. Furthermore, Mr. Weinberg indicated that there appears to be no correlation between filing fees and transcripts expenses.

Mr. Skobin moved to adopt the Committee's recommendation. Mr. Flesh seconded the motion. The motion carried unanimously. Mr. Flesh requested that the members be provided with an update at the January 2004, meeting.

The modified policy concerning court reporter fees and transcript costs is as follows:

Instance	Court Reporter Appearance Fees	Transcript Fees
Hearings on the merits and dispositive motions	Board	Board and requesting party or parties if they order official copies of transcripts
Other motions (Venue, consolidation, continuation, etc.)	Requesting party or parties	Requesting party or parties
Pre-hearing conference	Requesting party or parties	Requesting party or parties
Discovery disputes (ruling on objections to production, motions to quash, etc.)	Requesting party or parties	Requesting party or parties

14. **ANNUAL STATUS ON THE NEW MANUFACTURER/DISTRIBUTOR LICENSEES (CONTAINED IN DEPARTMENT OF MOTOR VEHICLES OCCUPATIONAL LICENSING “REPORT B”) WITHIN THE BOARD’S JURISDICTION FOR PURPOSES OF COLLECTING THE ANNUAL BOARD FEE (13 CCR § 553) - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker concerning an annual status report on the new manufacturer/distributor licensees within the Board’s jurisdiction for purposes of collecting the annual Board fee. Ms. Parker reported that 17 new licensees were identified and eight were within the Board’s jurisdiction. Given that the criteria are well defined and there has never been an objection, the staff will cease making an annual report.

15. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Pending Legislation that impacts the Board.
 - (1) Senate Bill 248 (Senator Murray).
 - (2) Senate Bill 298 (Senator Dunn).
 - (3) Assembly Bill 1718 (Committee on Transportation).
- b. Pending Legislation of general interest.

The members were provided with a memorandum from Tom Novi and Robin Parker summarizing the legislation that impacts the Board and bills of general interest. The summary analyzes the current law, the legislation, and the impact on the Board.

Mr. Novi reported that when SB 248 was introduced there was no fiscal impact. After the bill was amended, it went through the Senate without going through the appropriate fiscal committees because its status was not changed. The Department of Motor Vehicles is working with Assembly Committee staff to reflect the fiscal impact. Revenues from the recreational vehicle industry are estimated to be less than one-half of the Board’s expenditures.

Mr. Skobin requested that staff expand the scope of future reports to include legislation of general interest in the industry.

16. **EXECUTIVE DIRECTOR'S REPORT**

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code Sections 3060 and 3062.
- g. Other.

Mr. Novi provided the members with a report on Administrative Matters, which identified all pending projects, the Board manager and committee assigned, estimated completion dates, and status.

Mr. Novi reported that the Board's document retention policy was finally approved by the various control agencies with only a few minor modifications.

The members were also provided with a copy of the Executive Director's Report. Ms. O'Neill-Stewart indicated that there were no new case management matters to report. Mr. Weinberg reported that oral arguments were requested in the Mazda Motor of America, Inc. (David J. Phillips Mazda) appeal and are scheduled for July 22, 2003. Oral arguments in the Ford Motor Company (Bob Baker Ford) writ are scheduled for August 15, 2003.

Mr. Stevens read a letter into the record to Anthony M. Skrocki (Administrative Law Judge) congratulating him on his retirement from teaching for 30 years at McGeorge School of Law.

Mr. Weinberg provided the members with a handout that contained the language of the Board's disclaimer for its web site concerning links to other sites.

17. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at 1:33 p.m.

Submitted by

TOM NOVI
Executive Director

APPROVED: _____

Glenn E. Stevens
President
New Motor Vehicle Board